UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
--X
ALBY GEORGES,

Plaintiff,

-against-

THE CITY OF NEW YORK, SGT. DAVID REILLY, Shield No. 4245, Individually and in his Official Capacity, P.O. Brian Little, Shield No. 7155, Individually and in his Official Capacity, P.O.s "JOHN DOE" #1-10, Individually and in their Official Capacities, (the name John Doe being fictitious, as the true names are presently unknown),

Defendants.
--X

AMENDED COMPLAINT

11 CV 0885 (LAK)

JURY TRIAL DEMANDED

ECF CASE

Plaintiff, ALBY GEORGES, by his attorney, Jon L. Norinsberg, complaining of the defendants, respectfully alleges as follows:

PRELIMINARY STATEMENT

1. Plaintiff brings this action for compensatory damages, punitive damages and attorney's fees pursuant to 42 U.S.C. § 1983 and 42 U.S.C. § 1988 for violations of his civil rights, as said rights are secured by said statutes and the Constitutions of the State of New York and the United States.

JURISDICTION

2. This action is brought pursuant to 42 U.S.C. § 1983 and 42 U.S.C. § 1988, and the First, Fourth, Fifth, Eighth and Fourteenth Amendments to the United States Constitution.

3. Jurisdiction is founded upon 28 U.S.C. §§ 1331 and 1343.

VENUE

4. Venue is properly laid in the Southern District of New York under 28 U.S.C. § 1391(b), in that this is the District in which the claim arose.

JURY DEMAND

5. Plaintiff respectfully demands a trial by jury of all issues in this matter pursuant to Fed. R. Civ. P. 38(b).

PARTIES

6. Plaintiff is an African-American male , a citizen of the United States, and at all relevant times was and is a resident of the City and State of New York.

7. Defendant, the City of New York, was and is a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York.

8. Defendant, the City of New York, maintains the New York City Police Department, a duly authorized public authority and/or police department, authorized to perform all functions of a police department as per the applicable sections of the New York State Criminal Procedure Law, acting under the direction and supervision of the aforementioned municipal corporation, the City of New York.

9. That at all times hereinafter mentioned, the individually named defendants, SGT. DAVID REILLY, P.O. BRIAN LITTLE and P.O.s "JOHN DOE" #1-10, were duly sworn police officers of said department and were acting under the supervision of said department and according to their official duties.

10. That at all times hereinafter mentioned, the defendants, either personally or through their employees, were acting under color of state law and/or in compliance with the official rules, regulations, laws, statutes, customs, usages and/or practices of the State or City of New York.

11. Each and all of the acts of the defendants alleged herein were done by said defendants while acting within the scope of their employment by defendant City of New York.

12. Each and all of the acts of the defendants alleged herein were done by said defendants while acting in furtherance of their employment by defendant City of New York.

STATEMENT OF FACTS

13. On November 20, 2010, at approximately 2:42 am, plaintiff ALBY GEORGES lawfully parked his vehicle on the corner of Ludlow Street and East Houston Street, in the County of New York, City and State of New York.

14. At the aforesaid time and place, Plaintiff ALBY GEORGES exited his vehicle when defendant police officers approached plaintiff and demanded that he move his vehicle.

15. Plaintiff ALBY GEORGES explained to the defendant police officers, in a calm and reasonable manner, that he was legally parked.

16. Even though plaintiff ALBY GEORGES knew that his vehicle was legally parked, plaintiff submitted to the demands of the defendant police officers and promptly returned to his vehicle in order to move it to a different location.

17. As plaintiff ALBY GEORGES returned to his vehicle, one of the defendant police officers, SGT. DAVID REILLY continued shouting at plaintiff to move his vehicle.

18. Notwithstanding plaintiff ALBY GEORGES' compliance with the defendant police officers' demands, the aforementioned SGT. DAVID REILLY became enraged and, in a very loud tone, yelled at plaintiff: "That's it! You've run out of time!"

19. At that point, as plaintiff ALBY GEORGES entered his vehicle and attempted to close the door, the aforementioned SGT. DAVID REILLY violently grabbed the plaintiff's driver-side door and yanked it open.

20. Defendant police officer then violently grabbed plaintiff ALBY GEORGES by his shirt and punched him twice in the face.

21. Thereafter, defendant police officer dragged plaintiff ALBY GEORGES out of his vehicle and threw plaintiff to the pavement with full force.

22. Thereafter, another defendant police officer, "P.O. JOHN DOE" joined in and both defendant police officers repeatedly kicked and stomped plaintiff ALBY GEORGES in the face and head as he laid helplessly on the ground.

23. After this unprovoked assault took place, several other defendant police officers apologized to plaintiff ALBY GEORGES for the Sergeant's behavior and admitted that the Sergeant has a "bad temper."

24. As a result of this unprovoked assault, plaintiff ALBY GEORGES sustained, *inter alia*, injuries to his head, face, and lips.

25. This unlawful assault was witnessed by at least three civilian witnesses, Minel Eli, Maurice Merisier, and Kerby Royer.

26. Thereafter, the defendant police officers arrested plaintiff ALBY GEORGES and took him to the 7th Precinct, in the County of New York, in the City and State of New York.

27. At the precinct, defendant police officers refused plaintiff ALBY GEORGES' requests to make a phone call.

28. Thereafter, at approximately 1:15pm, plaintiff ALBY GEORGES was taken to Central Booking.

29. As a result of his unlawful arrest, plaintiff ALBY GEORGES spent approximately 20 hours in jail.

30. At arraignment, plaintiff ALBY GEORGES was released on his own recognizance.

31. At a subsequent court hearing on January 31, 2011, plaintiff ALBY GEORGES' case was adjourned in contemplation of dismissal.

32. Prior to this incident, plaintiff ALBY GEORGES, a 24 year-old student pursuing a Bachelor's Degree in International Business Management, had never before been arrested and had never had any dealings whatsoever with the criminal justice system.

33. As a result of the foregoing, plaintiff ALBY GEORGES sustained, *inter alia*, pain and suffering, loss of liberty, embarrassment and humiliation, and deprivation of his constitutional rights.

FIRST CLAIM FOR RELIEF
DEPRIVATION OF FEDERAL CIVIL RIGHTS UNDER 42 U.S.C. § 1983

34. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs numbered "1" through "33" with the same force and effect as if fully set forth herein.

35. All of the aforementioned acts of defendants, their agents, servants and employees were carried out under the color of law.

36. All of the aforementioned acts deprived plaintiff ALBY GEORGES of the rights, privileges and immunities guaranteed to citizens of the United States by the First, Fourth, Fifth, Eighth and Fourteenth Amendments to the Constitution of the United States of America, and in violation of 42 U.S.C. §1983.

37. The acts complained of were carried out by the aforementioned individual defendants in their capacities as police officers, with all the actual and/or apparent authority attendant thereto.

38. The acts complained of were carried out by the aforementioned individual defendants in their capacities as police officers, pursuant to the customs, usages, practices, procedures, and rules of the City of New York and the New York City Police Department, all under the supervision of ranking officers of said department.

39. Defendants, collectively and individually, while acting under color of state law, engaged in conduct which constituted a custom, usage, practice, procedure or rule of his/her respective municipality/authority, which is forbidden by the Constitution of the United States.

SECOND CLAIM FOR RELIEF
FALSE ARREST UNDER 42 U.S.C. § 1983

40. Plaintiff repeats, reiterates and realleges each and every allegation contained in

paragraphs numbered "1" through "39" with the same force and effect as if fully set forth herein.

41. As a result of defendants' aforementioned conduct, plaintiff ALBY GEORGES was subjected to an illegal, improper and false arrest by the defendants and taken into custody and caused to be falsely imprisoned, detained, confined, incarcerated and prosecuted by the defendants in criminal proceedings, without any probable cause, privilege or consent.

42. As a result of the foregoing, plaintiff's liberty was restricted for an extended period of time, and he was put in fear for his safety, was humiliated and subjected to handcuffing, and other physical restraints, without probable cause.

THIRD CLAIM FOR RELIEF
EXCESSIVE FORCE UNDER 42 U.S.C.§ 1983

43. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs numbered "1" through "42" with the same force and effect as if fully set forth herein.

44. The level of force employed by defendants was objectively unreasonable and in violation of plaintiff ALBY GEORGES' constitutional rights.

45. As a result of the aforementioned conduct by the defendants, plaintiff ALBY GEORGES was subjected to excessive force and sustained physical injuries to his head, face and lips.

WHEREFORE, plaintiff ALBY GEORGES demands judgment in the sum of one million dollars ($1,000,000.00) in compensatory damages, one million dollars ($1,000,000.00) in punitive damages, plus attorney's fees, costs, and disbursements of this action.

DATED: June 7, 2011
New York, New York

BY: _________/s/___________________

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